20010263

CITY OF ELGIN
ORDINANCE NO. 142 (2001)
AN ORDINANCE LEGALIZING THE STREETS IN
SOMMERS ADDITION TO THE CITY OF ELGIN

THE CITY OF ELGIN ORDAINS AS FOLLOWS;

SECTION 1. FINDINGS.

In the matter of Sommers Addition to Elgin Oregon, the City of Elgin finds that:

A) Oregon Revised Statues provides a means for a city, through action of its governing body, to "legalize" streets and roads as follows:

"A city governing body may initiate proceedings to legalize a city road within the city under ORS 223.935 to 223.950 if any of the following conditions exist.

(1) If, through omission or defect, doubt exists as to the legal establishment or evidence of establishment of a public road.

(2) If the location of the road cannot be accurately determined due to:

(a) Numerous alterations of the road;

(b) A defective survey of the road or adjacent property; or

(c) Loss or destruction of the original survey of the road."

B) The original plat of the Sommers Addition to Elgin Oregon, recorded May 1, 1897 does not represent an accurate survey of the 1/4-1/4 section that comprises the parcel of the Sommers Addition. The true dimensions of the parcel are greater than the mathematical dimensions shown on the recorded plat map. When customary surveying methods are applied to the actual parcel, due to the defect of the original map, the blocks and streets do not coincide with the long standing developments of streets and lots within Sommers Addition. This makes the "legal" location of said streets by this method of surveying, contrary to the long standing and historic development of the streets.

C) The recorded survey and executed partition plat performed by Rick Robinson of Bagett, Griffith and Blackman using the customary surveying techniques and filed with the Union County Clerk under Partition Plat No. 1999-27 does not conform to the pre-existing use boundaries nor to the location of the developed streets within the subdivision, and thus creates numerous encroachments and boundary conflicts.

D) Long established use boundaries and unrecorded monuments within the subdivision largely do conform to the dimensions represented in the original recorded plat.

E) The City of Elgin has caused a re-survey of the subject subdivision to determine the location of the streets and blocks within the Sommers Addition. This re-survey was performed by Tomkins Land Surveying, Inc. of Walla Walla Washington. This survey, dated October 23 of 2000 and filed with the Union County Surveyor as Survey No. 033-2000 , has located unrecorded monuments, evidence of lot lines and other evidence of the intended and long standing use boundaries that largely conform; a) to the development of the subdivision, b) to the location of streets and, c) to the dimensions of the original platted blocks of the subdivision. This evidence of the parceling of the subdivision is sufficient to determine the original intent of the subdividers. A copy of the survey is attached hereto.

F) The City of Elgin has caused Tomkins Land Surveying to place monuments at the center lines of the streets within the subdivision corresponding to and consistent with the evidence of boundaries, monuments and other markers as discovered in E) above.

G) The streets "legalized" by this ordinance are predominately within and upon the pre-existing and developed streets of the subdivision and therefor no private property uses or buildings exist within the defined streets.

H) There are pre-existing boundary conflicts between properties in Sommers Addition and Thompson's Addition, along the eastern boundary of Sommers Addition, which are not resolved by this action.

SECTION 2. LEGALIZATION OF STREETS

Pursuant to the provisions of ORS 223.935 to 223.950 the City Council, as governing body of the City of Elgin, hereby declares and orders that the streets within the Sommers Addition to Elgin Oregon, namely South 20th Avenue (Fir Street), South 19th Avenue (Pine Street), Public Street (un-labeled street along the north boundary of the subdivision), Alder Street (Main Street) and Birch Street (Sommer Street) are hereby legalized and located as monumented by Tomkins Land Surveying, said monuments being at the center line of each street and the total width of said streets being 30 feet, documented by Union County Survey No. 2000-33. Note: The street names enclosed in parentheses are those names presented on the original Sommers Addition plat map.

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P.O. 128
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SECTION 3. VACATION OF STREETS

In the event that any legal descriptions or past or future surveys or partition plats indicate that the above listed streets exist outside of the rights-of way defined in Section 2 above, those streets or portions thereof that lay outside the defined area of Section 2 are hereby vacated.

SECTION 4. USES CONTINUED

Any electric transmission lines, information transmission lines, water mains, gas mains, sewer lines or any other utilities or services above, on, or under those portions of the said vacated streets of Section 3 above, are hereby granted a permanent easement for purposes of continuing the provision of utilities and services, the maintenance of such utilities and services, and the expansion of such utilities and services as is in accordance with the contracts, agreements, ordinances and regulations of the City of Elgin.

SECTION 5. PARTITION PLAT NO. 1999-27 VOID

Pursuant to ORS 223.950 (4a) the partition plat filed and recorded at the office of the Union County Clerk under No.1999-27 is hereby found to be in conflict with this order to legalize the listed streets of Sommers Addition to Elgin Oregon and is thus declared void.

SECTION 6. SEVERABILITY CLAUSE

The sections and subsections of this ordinance are severable. The invalidity of a section or subsection shall not affect the validity of the remaining sections and subsections herein.

SECTION 7. EFFECTIVE DATE:

This ordinance becomes effective and in full force 30 days after adoption by the City Council.

PASSED AND ADOPTED THIS 9th DAY OF JANUARY 2001,
BY FIVE (5) COUNCIL MEMBERS VOTING THEREFORE AS HEREIN RECORDED.

Berta Churchill, signed Berta Churchill, Mayor ☒ YES ☐ NO

John Stover, Councilor AGS	~~☐ YES ☐ NO~~	Pat McMullen, Councilor AGS	~~☐ YES ☐ NO~~
John Braughton, Councilor	☒ YES ☐ NO	Glen Clark, Councilor	☒ YES ☐ NO
Marc Stauffer, Councilor	☒ YES ☐ NO	John McElravy, Councilor	☒ YES ☐ NO

Joe Garlitz Date 1-9-2001
Attest: Joe Garlitz, City Recorder

Filed with the Union County Clerk Date 1-18-2001

STATE OF OREGON }
} SS
County of Union }

I certify that this instrument was received and recorded in the book of records of said county.

R. NELLIE BOGUE HIBBERT,
Union County Clerk

by: B N Bogue Hibbert Deputy.

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